

1 have done anything differently?

2 A. Most definitely.

3 Q. What would you have done?

4 A. I would have made sure that I  
5 looked -- I did the research on the regulations  
6 and followed it to a T. And probably been a  
7 little more stern as to my recommendation to  
8 Kurtis that we exactly follow the rules to a T.

9 Q. The next letter that I want to show  
10 you is one dated November 1, 2002. It was sent  
11 by certified mail to the legal department at  
12 Business Options Inc. And it is six pages in  
13 length. And then there are two pages of an  
14 attachment. Attachment A -- and why don't you  
15 scan the letter and I can ask some questions  
16 about it.

17 (Witness Reviewing Document.)

18 Q. This letter was directed to yourself  
19 eventually?

20 A. Yes.

21 Q. Were you the person who was primarily

1 responsible for responding to it?

2 A. I guess you could say in the end, the  
3 final product was my responsibility, yes.

4 Q. Did you bring this letter to Kurtis's  
5 attention?

6 A. Yes.

7 Q. Did you give him a copy of it?

8 A. Yes.

9 Q. Did it -- I recognized that the  
10 context of this in the sense of when it was that  
11 you came to be employed at Business Options, you  
12 wouldn't necessarily know this, but did you view  
13 this as a serious matter?

14 A. Yes.

15 Q. Did you have -- in the conversations  
16 you had with Kurtis, did you have any  
17 understanding from him as to whether or not he  
18 viewed this as a serious matter?

19 A. I assumed he did.

20 Q. Do you have any knowledge as to  
21 whether or not he actually read the letter?

1           A.     Yes.

2           Q.     And what is it that lead you to that  
3 conclusion?

4           A.     I'm not sure about the first page or  
5 the second page, but I remember the section under  
6 documents and information should be provided.  
7 I'm sure he read that.

8           Q.     In other words, the 12 specific  
9 subject areas that the FCC wanted information on?

10          A.     Yes.

11          Q.     And in terms of your believing that he  
12 had read throughout that, did you and he actually  
13 discuss point by point what needed to be done?

14          A.     Yes.

15          Q.     Do you recall approximately when you  
16 had this conversation with him in terms of -- you  
17 can tell that the letter is dated November 1, so  
18 go from there.

19          A.     I'm not sure exactly what day, but I  
20 remember sitting in his office across the desk  
21 from him -- because at that time, I didn't know

1 who to go to for the information. And I remember  
2 sitting across from his desk and writing down  
3 which departments to go to for what information.

4 Q. So you and he would look at, say,  
5 point one and if you could read that out loud,  
6 please.

7 A. "Describe BOI's corporate structure  
8 including a description of each subsidiary or  
9 affiliate identified. Also provide a list of  
10 officers and directors for each affiliate entity.  
11 Provide all relevant documents."

12 Q. So certainly, in early November of  
13 2002, you would have had no idea whatsoever how  
14 to respond to that?

15 A. No.

16 Q. And so you and Kurtis talked about it?

17 A. Yes.

18 Q. And what did he tell you?

19 A. I don't remember what he told me about  
20 that portion. I remember specifically going over  
21 three through twelve.

1           Q.       Your recollection is a little fuzzier  
2       with respect to points one and two. With respect  
3       to point two, what did it say?

4           A.       "Provide evidence that BOI has  
5       complied with the registration requirements  
6       pursuant to 47 CFR 64.1195."

7           Q.       Did you look up that section?

8           A.       No, we didn't.

9           Q.       Have you at any time looked up that  
10       section?

11          A.       I'm sure I have, yes.

12          Q.       In terms of responding to the November  
13       1 letter from the FCC, your recollection is that  
14       you did not look up that section to find out what  
15       it said?

16          A.       No, I didn't.

17          Q.       Do you have any explanation as to why  
18       you didn't look it up?

19          A.       At that time, I believe that the  
20       registration requirements were the requirements  
21       that we were properly certified.

1           Q.     You interpreted that question in terms  
2 of your ability to do business in the various  
3 states?

4           A.     Uh-huh.   Yes.

5           Q.     That was how you understood that  
6 question?

7           A.     Yes.

8           Q.     But that was without the benefits of  
9 having looked up the rule --

10          A.     Exactly.

11          Q.     -- to see what it said?

12          A.     Exactly.

13          Q.     Could you now focus on point three.  
14 And what did point three want you to do?

15          A.     During the period of April 1st, 2002  
16 to ...

17          Q.     Read it out loud, please.

18          A.     "During the period of April 1st, 2002  
19 to the present that BOI or any other  
20 subsidiaries, affiliates or any other entity  
21 acting under BOI's control or its agent

1 submitted, executed and ordered to transfer  
2 carrier as specified in the complaints in  
3 attachment A." And then, "if so."

4 Q. And what did you understand that that  
5 section of the letter was asking you to do?

6 A. That they -- that these customers had  
7 accused us of unauthorized switches. And the  
8 question was asking us, had we switched their  
9 service according the way that they complained  
10 that we had.

11 Q. In terms of way they complained, did  
12 you actually see any of the complaints that the  
13 customers had made?

14 A. I think I did.

15 Q. There's a list of close to 30 people,  
16 I believe, if you count them all up. Did you  
17 have -- did you look at the complaints of all 30?

18 A. No, I didn't.

19 Q. In terms of responding to this letter,  
20 do you recall approximately how many complaints  
21 you did look at that were listed in attachment A

1 of the November 1 letter?

2 A. I think we looked -- I personally  
3 looked at the ones that were listed in the FCC  
4 complaint.

5 Q. Which ones are they?

6 A. Barbara Beeson, Fred McAydis  
7 (phonetic) and Jane Stack.

8 Q. So you looked at three?

9 A. Yes.

10 Q. About when did you look at them?

11 A. I think when I got ready to respond to  
12 that question.

13 Q. With respect to the others that are  
14 listed in attachment A, do you know who, if  
15 anyone, looked at the complaints that are  
16 referenced there?

17 A. I believe -- I'm not sure. I think at  
18 that time Amy was still there. Either Amy or  
19 Megan, I'm not sure which one was there. But  
20 they were taking care of the Maine complaints.

21 Q. All of those other complaints are from



1 the State of Maine?

2 A. Yes.

3 Q. And so it's your understanding at this  
4 point or recollection at this point that Amy or  
5 Megan looked at the other 20-odd complaints that  
6 had come from the State of Maine that are noticed  
7 in this November 1 letter?

8 A. I'm pretty sure because I directed  
9 them to keep track of all the Maine complaints,  
10 keep them all together. So they were handling  
11 the Maine complaints.

12 Q. And with respect to question number  
13 three, you had understood it in the context that  
14 the complaints were that the switches were  
15 unauthorized?

16 A. That's what the -- the customers were  
17 saying that. That's what I understood the  
18 question to be.

19 Q. And what conclusion did you come to  
20 after looking at the three complaints that you  
21 had referenced, the ones that had been sent

1 directly to the FCC by Beeson, McAyilis and the  
2 third person?

3 A. I didn't think that we had.

4 Q. That the -- that any switches that had  
5 been made were authorized?

6 A. Right, uh-huh.

7 Q. That was your understanding of your  
8 review of the records?

9 A. Right.

10 Q. In terms of the way question number  
11 three is phrased, are you telling me that you  
12 read in the word "unauthorized" in terms of  
13 switches occurring after April 1, 2002?

14 A. Yes. Because that would be the only  
15 reason that the customers would be complaining.

16 Q. Did you have any understanding as to  
17 how switches came about with respect to the three  
18 customers that you looked at after -- the  
19 switches occurring after April 1, 2002?

20 A. Can you repeat that again?

21 Q. Okay. It was a little garbled. With

1     respect to switches that occurred after April 1,  
2     2002 for the three complainants that you looked  
3     at, what understanding did you have as to how the  
4     switches were actually made?

5             A.     Are you asking me if later on after  
6     April 1st of 2002 -- I'm not certain --

7             Q.     In other words, what -- you had to  
8     look at something with respect to these  
9     individuals, there was some record of some kind  
10    that you had to look at?

11            A.     Yes.

12            Q.     Maybe if you just walk me through what  
13    it was that you recall looking at, that will help  
14    us along here.

15            A.     I believe it was on-line rep. And you  
16    type in the person's phone number and you go to  
17    the summary page. And, I think, generally what I  
18    would do is, go down to the bottom of the page.  
19    And it would have the person's birth date, the  
20    day that they were verified and the sale and tape  
21    number, sometimes it's listed there. But the

1 most important thing is that we have that  
2 person's birth date.

3 Q. Did you have any understanding that  
4 the individuals that are named that you looked  
5 up, Beeson and McAyilis and Stack, I guess Stack  
6 was complaining in respect to her mother Bessie  
7 Goodbring (phonetic) --

8 A. Uh-huh.

9 Q. That a switch had occurred after April  
10 1, 2002 that was not related directly to a  
11 verification?

12 A. No. I wasn't aware of that.

13 Q. You weren't aware of that?

14 A. No.

15 Q. And that's because, again, the record  
16 that you looked at -- if you could try to  
17 describe to us what appeared on the record that  
18 you looked at in order to conclude that no  
19 unauthorized switch had occurred?

20 A. You just go in and type in the  
21 person's phone number, click on the left side of

1 the screen that says summary page. And it has  
2 the billing information and the customer's name  
3 and address and whatnot. And then when you  
4 scroll down to the bottom of the page, it lists  
5 the verification information. And that's  
6 available.

7 Q. I want to show you some things with --  
8 show you some telephone records with respect to a  
9 particular individual. And perhaps this will  
10 help us understand what happened here.

11 MR. HAWA: Before you do, I just  
12 wanted to re-visit and clarify a question you  
13 asked three or four questions ago. You asked  
14 Ms. Dennie whether or not she read in to question  
15 three the word "unauthorized."

16 MR. SHOOK: Right.

17 MR. HAWA: She responded "yes." But  
18 by way of clarification, her original testimony  
19 was that she read the language, "Has BOI -- it  
20 goes on -- ordered a change of preferred carrier  
21 as specified in the complaints in attachment A."

1 She didn't necessarily read in any words other  
2 than the plain language of this question. She  
3 read this question, did you change the preferred  
4 carriers as specified in the complaints. As  
5 specified in the complaints is an unauthorized  
6 change.

7 MR. SHOOK: Right.

8 BY MR. SHOOK:

9 Q. Assuming that you had actually read  
10 the complaint and I believe you indicated you  
11 had?

12 A. Yes.

13 Q. So --

14 A. I went through the folder. And I also  
15 knew from the complaints that we had, there  
16 were -- no one would complain to the FCC unless  
17 it was something along those lines.

18 Q. Do you have any specific recollection  
19 of reading a complaint that Barbara Beeson had  
20 made?

21 A. No.

1 MR. HAWA: Just to finalize my --

2 MR. SHOOK: I'm going to see if I can  
3 find the complaint. I understand where you're  
4 coming from. I think she's explained, you know,  
5 adequately how it is that she came to interpret  
6 the question.

7 BY MR. SHOOK:

8 Q. It turns out that the declaration that  
9 I have is from a much -- excuse me. I'm going to  
10 show you a document that is seven pages in  
11 length. It is a complaint for Barbara Beeson.  
12 It has some material from the FCC, the first  
13 three pages of the document, specifically a  
14 number of -- a tracking number of some kind which  
15 is 02-S76279. It reflects that it was received  
16 by the FCC on 6-5-2002. And I want to direct  
17 your attention to the fourth page. And ask you  
18 whether or not you have ever seen this before.  
19 It's a handwriting that appears to be from  
20 Barbara Beeson.

21 MR. HAWA: And the reason you're

1 submitting us to the Beeson one is it's  
2 illustrative and it's one of the three that  
3 she --

4 MR. SHOOK: Yes.

5 THE WITNESS: Vaguely I remember this  
6 one. I'm not sure if it was from Barbara Beeson  
7 or -- it looks vaguely familiar.

8 BY MR. SHOOK:

9 Q. To put this in some context, the first  
10 document of the series of documents that I want  
11 to show you is a telephone bill that had been  
12 sent by Verizon to Doyle G. and Barbara Beeson.  
13 The statement date is for a period that ends  
14 March 4th, 2002. And what I would like you to  
15 focus on is when you get to page six of that  
16 statement.

17 A. Okay.

18 Q. Doing some relatively simple math,  
19 you'll notice what it is that the per minute  
20 charge is for the intrastate calls that are  
21 reflected there, do you not?



1           A.       What state is she from?

2           Q.       She's from Illinois.

3                   MR. HAWA:  It's not simple math for  
4 me, James.  What's the rate?

5                   THE WITNESS:  30 cents a minute.

6                   MR. HAWA:  No.  .3 is the length of  
7 the call -- no.  It's not simple for us, James.

8                   MR. SHOOK:  Okay.  Then let me do it.  
9 The first phone call, for example, is for six  
10 minutes.  And the charge reflected is 30 cents.  
11 So that would be five cents a minute.

12                  THE WITNESS:  Yes.

13                  BY MR. SHOOK:

14           Q.       And if you go on down from there,  
15 you'll notice with to the intrastate calls, they  
16 are all five cents a minute.

17           A.       Right.  Five.

18           Q.       And the one with respect to Kentucky,  
19 that happens to be nine cents a minute, does it  
20 not?

21           A.       Yes.

1           Q.     And you'll also see from the bill that  
2     the majority of the calls -- the vast majority of  
3     the calls made are within the State of Illinois?

4           A.     Yes.

5                     (Discussion held off the record.)

6           Q.     The next document I'd like to show you  
7     is from the April 4th, 2002 statement. And this  
8     was part of what was sent by Ms. Beeson to the  
9     FCC. Recognizing that a portion of the bill has  
10    been cut off in the photocopying process, I  
11    believe a simple comparison would still lead to  
12    the conclusion that the per minute charge that  
13    was made for the calls that are reflected there,  
14    were in the order of 20 cents a minute. Can you  
15    see that?

16          A.     Uh-huh.

17          Q.     "Uh-huh," meaning yes?

18          A.     Yes.

19          Q.     To address a point that your counsel  
20    raised, let me see if I can find any with same  
21    number so to make sure that we're comparing

1 apples and apples. Okay. It's not exactly the  
2 same telephone number, but I believe it's the  
3 same local exchange on the April statement. The  
4 call to -- looks like Tuscola, T-U-S-C-O-L-A,  
5 Illinois, at area code 217-253. If you look at  
6 the March 4th, 2002 statements, you'll see a  
7 number of calls also made to Tuscola to the 253  
8 exchange. And in the portion that was billed on  
9 behalf of Business Options, that call is 20 cents  
10 a minute, whereas the call on the previous  
11 statement, it was five cents a minute to the same  
12 local exchange.

13 A. Yes.

14 MR. HAWA: Business Options had  
15 different rates.

16 MR. SHOOK: So for the same call, the  
17 Business Options' charge was four times as high.

18 THE WITNESS: Yes.

19 MR. SHOOK: Looking at the next  
20 statement --

21 MR. HAWA: I'm going to have to object

1 to that. You're looking at an individual  
2 origination and termination point. I mean,  
3 that's not the way competitors price their rates.  
4 I mean, you're looking at the prospective of the  
5 entire bill, state to state, intrastate as a  
6 whole, to determine whether rates are  
7 competitive.

8 MR. SHOOK: All I'm saying is, with  
9 respect to that one in particular call, the  
10 exchange. If Barbara was calling area code 217  
11 at the 253 exchange, the plan that she had with  
12 Verizon was charging her five cents a minute.  
13 What she ended up with when she was with Business  
14 Options was 20 cents a minute.

15 MR. HAWA: But for the record, what  
16 you're saying is that there is an example of one  
17 call with one origination point and destination  
18 point where Verizon's rates were more competitive  
19 than Business Options' rates. That doesn't apply  
20 to whether or not Business Options' rates are  
21 more competitive than Verizon's as a whole for a

1 customer, which I can --

2 MR. SHOOK: I'm speaking only of this  
3 particular customer with respect to the two --  
4 the comparison that we were able to make with the  
5 two bills.

6 MR. HAWA: So there is an example of a  
7 call where Verizon has better rates than Business  
8 Options'.

9 MR. SHOOK: Right. And not just --  
10 that was a specific example. But if you wish, we  
11 could go through both bills. And I believe we  
12 saw a pattern with respect to the toll charges  
13 that were imposed on the Beesons in the March  
14 statement that they were uniformly five cents a  
15 minute for the intrastate calls, whereas on the  
16 subsequent statement, the April 4th statement,  
17 charges that were made for intrastate calls were  
18 uniformly 20 cents a minute.

19 MR. HAWA: The intrastate, that's  
20 fine.

21 MR. SHOOK: Right. I'm not saying

1 anything about interstate here.

2 BY MR. SHOOK:

3 Q. The next statement I want to show you  
4 is from May 4th, 2002. And the two pages that I  
5 want you to focus on are pages five and seven.

6 A. Okay.

7 Q. Now, with respect to the dates and  
8 amounts here, you'll notice that the charges that  
9 appear on page five are charges for telephone  
10 calls that are billed on behalf of Business  
11 Options Inc. Again, you'll notice that the rate  
12 for each of the calls that are noted there from  
13 March 28 through April 13th, they're all within  
14 the State of Illinois. Most of them -- all but  
15 one of them are made to the 217 area code, one of  
16 them is made to the 618 area code, but that each  
17 of the charges reflected here is uniformly 20  
18 cents a minute.

19 A. Yes.

20 MR. HAWA: In our interrogatories,  
21 we -- you asked about the rates. And we

1 identified intrastate rates at 20 cents a minute.

2 MR. SHOOK: Right.

3 BY MR. SHOOK:

4 Q. And now when you look at page seven,  
5 which reflects calls that were made from April  
6 18th through April 22, you will see that the --  
7 these are charges that are going to be billed by  
8 Verizon and the amount that the customer will pay  
9 to Verizon. And that the per minute charge is  
10 five cents a minute.

11 A. Yes.

12 Q. So one thing that I think one could  
13 infer from this was that at some time between  
14 April 13th, which is the last date noted for a  
15 charge on behalf of Business Options Inc. to  
16 April 18th, that somehow a switch occurred from  
17 Business Options Inc. to Verizon, would that be a  
18 fair inference?

19 A. Yes.

20 Q. And that service continued with  
21 respect to Verizon or behalf of Verizon at least

1 between April 18th and April 22?

2 A. Yes.

3 Q. The next statement, which -- the  
4 statement period is ending June 4th, 2002. And  
5 what I'm showing you is page five of that  
6 statement. And you will notice that the charges  
7 that appear here are, again, being billed on  
8 behalf of Business Options Inc.

9 A. Yes.

10 Q. And those charges commenced at least  
11 at the earliest -- excuse me. No later than  
12 April 24th and continue through May 11.

13 A. Yes.

14 Q. And once again, the charges appear for  
15 intrastate calls at 20 cents a minute?

16 A. Yes.

17 Q. So, again, would you say that it was a  
18 fair inference that at some point between April  
19 22 and April 24, the Beeson service was changed  
20 back from Verizon to Business Options?

21 A. Yes.



1           Q.     And then to put an end to this,  
2     looking at the July 4th statement, you will note  
3     on page six that the Beeson service is now back  
4     to Verizon again.

5           A.     Yes.

6           Q.     And that the permanent charge is once  
7     again five cents a minute for intrastate calls  
8     that are noted on this bill?

9           A.     Yes.

10          Q.     Now, with all of this as back drop,  
11     you do see, do you not, that there was a switch  
12     that occurred between April 22 and April 24 from  
13     Verizon to Business Options?

14          A.     Yes, I see that.

15          Q.     In your investigation of the Beeson  
16     matter, were you aware that such a change had  
17     occurred?

18          A.     No, I wasn't.

19          Q.     In terms of looking at the screen that  
20     you referenced, is there any way a printout of  
21     that screen could be supplied for the record to